IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No. 24026 of 1999

Between:

Mrs. Pushpa Miyan, W/o. Major K.P.Miyan,
r/o.2, Radha Sudha Buildings, Temple Alwal, Secuncerabad.

..... PETITIONER

AND

1 The Adjutant General, Adjutant General's Branch,
Army Headquarters, DHQ PO, New Delhi-110 011
2 The Commanding Officer, EME Records, Secunderabad.
3 The Director General of Police, Himachal Pradesh, Shimla.
4 The Superintendent of Police, Dist. Kinnaur, Himachal Pradesh.
5 Mrs. Dharm Bhagti W/o. Late Amritlal Negi,
r/o. Labrang Village & P.O., Tehsil Pooh
Dist. Kinnaur, Himachal Pradesh.
6 Mr.Jaya Prakash S/o.Late Amritlal Negi,
Labrang village & P.O., Tehsil Pooh,
Dist. Kinnaur, Himachal Pradesh.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction, more particularly one in the nature of a Writ of Mandamus; i) declaring the action of the respondent authorities in not taking any action on the complaints made by me to investigate the death of my husband Major K.P.Miyan as arbitrary, illegal and amounts to dereliction of duty; ii) direct the respondent authorities to pay all the amounts payable on account of the death of my husband Major K.P.Miyan, to the petitioner herein.

Counsel for the Petitioner : MR. A.SUDERSHAN REDDY

Counsel for the Respondent Nos.1 to 4 : MR.ARAJASHEKAR REDDY (SC

FOR CG)

Counsel for Respondent Nos.5 & 6 : Mr. P.V.RAMANA

The Court made the following :

ORDER:

The petitioner claims that she is wife of Major K.P. Miyan. She filed the writ petition seeking a writ of mandamus declaring the action of the respondents in not taking any action on the complaints made by the petitioner to investigate the death of her husband as arbitrary and illegal and for a direction to the respondent authorities to pay all the amounts payable to late Major K.P. Miyan to her.

The petitioner claims that Major K.P. Miyan married her on 25.10.1997 at Hyderabad. Major K.P. Miyan died on 19.07.1999 when he went to his native place in Himachal Pradesh. On coming to know about the death, she gave a complaint to Station House Officer, Pooh, Kinnaur District in Himachal Pradesh as well as to the Director General of Police, Shimla. She also allegedly sent similar complaints to army officers to investigate the death of the petitioner. She also alleges that according to the custom prevalent in the tribe, to which Major K.P. Miyan belongs, the fifth respondent, who is the wife of the elder brother of Major K.P. Miyan was recorded as wife of Major K.P. Miyan. The petitioner asserts that Major K.P. Miyan never lived with the fifth respondent as husband. It is also the case of the petitioner that when she was living with her husband, the second respondent issued a letter dated 19.03.1999, calling upon Major K.P. Miyan as to why he is living with the petitioner, to which a reply was sent denying the allegation that the fifth respondent is wife of Major K.P. Miyan. According to the petitioner, when the petitioner and Major K.P. Miyan went to native place Sabathu village, the sixth respondent threatened Major K.P. Miyan with dire consequences, and she alleges that her husband is killed when he went to his native place to collect evidence to show that the fifth respondent is not his wife. Alleging that her complaint was not investigated, the present writ petition is filed.

The second respondent has filed a detailed counter affidavit opposing the writ petition stating that as per the evidence available in the office, the petitioner is legally wedded wife of JC-155833, late Subedar Soman Topgey Bhutia of 2/1 Gorkha Rifles, that her original name is Smt.Tshering Doma also known as Pushpa Lata and that she had two sons and she is in receipt of family pension of late Subedar Soman Topgey Bhutia. It is further stated that when Major K.P. Miyan was posted at Secunderabad, he was allotted Government married accommodation but when the authorities came to know about his first wife, he was asked to submit explanation. The Officer asked sufficient time to produce material, and he was granted twenty five days leave from 07.07.1999 to 31.07.1999 and that while he was on leave he died at his hometown on 19.07.1999. The case was properly

investigated but as the petitioner did not contact the commanding officer, she could not be informed about the investigation. The averment is also made that the petitioner, being the wife of late Subedar Soman Topgey Bhutia receiving family pension, is not entitled for death benefits of late Major K.P.Miyan.

Though the counter affidavit is filed on 03.03.2000, the petitioner has not filed any reply affidavit denying the counter averments. This would show that the counter averments stands proved and this Court holds that the writ petition is frivolous and is filed without any basis. In the factual background, no relief can be granted to the petitioner especially when an assertion is made in the counter affidavit that the case was already investigated.

The writ petition is devoid of merits and is accordingly dismissed.

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(V.V.S.RAO,J)

04.11.2004.

pln

To

1 The Adjutant General, Adjutant General's Branch,
Army Headquarters, DHQ PO, New Delhi-110 011
2 The Commanding Officer, EME Records, Secunderabad.
3 The Director General of Police, Himachal Pradesh, Shimla.
4 The Superintendent of Police, Dist. Kinnaur, Himachal Pradesh.

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